

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL NO. 1456

THIS DOCUMENT RELATES TO:

BMS SETTLEMENT

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**CLASS PLAINTIFF'S MOTION TO RESCHEDULE DATES RELATED TO
FINAL APPROVAL OF THE BMS SETTLEMENT**

Class Plaintiff submits this motion seeking Court approval of a revised schedule establishing opt-out, objection and claims filing dates and to reschedule the date for the final fairness hearing related to the BMS Settlement, currently scheduled for February 9, 2010. Class Plaintiff has conferred with the BMS Defendants, and the BMS Defendants do not oppose this Motion. A proposed form of order is attached hereto for the Court's consideration.

We have been awaiting data from CMS in order to provide direct mail notice of the settlement to Class 1 consumers using CMS contact and payment data. As Class Counsel recently advised the Court in relation to the Track Two Settlement (Doc. No. 6867), the CMS vendor responsible for providing this data has encountered additional delays in providing the data and now anticipates that all data will be provided by mid-March 2010. Consequently, Class Plaintiff moves to amend the schedule associated with notice and the final approval of the BMS settlement as follows:

Date	Event
April 30, 2010	Mailing of individual notices; publication of notice
May 28, 2010	Deadline for Class 1 members to return Claim Cards

June 25, 2010	Deadline for objections, requests for exclusions, and notices of appearance
July 16, 2010	Briefs in support of final approval and Class Counsel's fee petition due
July 22, 2010	Final approval hearing
September 24, 2010	Claims deadline for all Classes

If further significant delays are encountered with the CMS vendor, Class Counsel may request the vendor to directly provide the Court with the reasons for such additional delay and a date certain for the production.

For the reasons set forth above, Class Counsel respectfully request that the Court approve the revised schedule set forth above and that the Court enter the proposed Order filed herewith.

DATED: February 2, 2010.

By /s/ Steve W. Berman
 Thomas M. Sobol (BBO#471770)
 Edward Notargiacomo (BBO#567636)
 Hagens Berman Sobol Shapiro LLP
 55 Cambridge Parkway, Suite 301
 Cambridge, MA 02142
 Telephone: (617) 482-3700
 Facsimile: (617) 482-3003

LIAISON COUNSEL

Steve W. Berman
 Sean R. Matt
 Hagens Berman Sobol Shapiro LLP
 1918 Eighth Avenue, Suite 3300
 Seattle, WA 98101
 Telephone: (206) 623-7292
 Facsimile: (206) 623-0594

Jeffrey Kodroff
John Macoretta
Spector, Roseman Kodroff & Willis, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
Telephone: (215) 496-0300
Facsimile: (215) 496-6611

Kenneth A. Wexler
Jennifer Fountain Connolly
Wexler Wallace LLP
55 W. Monroe, Suite 3300
Chicago, IL 60603
Telephone: (312) 346-2222
Facsimile: (312) 346-0022

Marc H. Edelson
Hoffman & Edelson LLC
45 West Court Street
Doylestown, PA 18901
Telephone: (215) 230-8043
Facsimile: (215) 230-8735

CLASS COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **CLASS PLAINTIFF'S MOTION TO RESCHEDULE DATES RELATED TO FINAL APPROVAL OF THE BMS SETTLEMENT**, to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on February 2, 2010, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman

Steve W. Berman